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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/998,504

11/30/2001

Ken Dubuc

1400.1373460

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01/15/2009

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EXAMINER

WONG, BLANCHE

ART UNIT

PAPER NUMBER

2419

MAIL DATE

DELIVERY MODE

01/15/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<p><b>Application No.</b> 09/998,504</p>	<p><b>Applicant(s)</b> DUBUC ET AL.</p>	
	<p><b>Examiner</b> Blanche Wong</p>	<p><b>Art Unit</b> 2419</p>	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 01 December 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Edan Orgad/  
Supervisory Patent Examiner, Art Unit 2419

/Blanche Wong/  
Examiner, Art Unit 2419

Continuation of 11. does NOT place the application in condition for allowance because: With regard to claim 1, Applicant states "Applicant notes no rejection under 35 UCS 112, 1<sup>st</sup>, was made against claim 3 during examination of prior to its cancellation." Remark, p.7, para. 3. Examiner notes that when the rejection 112,1<sup>st</sup> was introduced after the cancelling of claim 3 in office action dated February 7, 2008, Examiner fairly issued a non-final office action under the circumstance, as clarified in final office action dated September 26, 2008. Specifically with regard to 112,1<sup>st</sup>, claims 1 and 10 recite a drawing that looks "service interface1 - transport interface - service interface2", whereas the specification/Fig. 1 discloses "a service interface1 - transport interface1 - transport interface2 - service interface2". (Examiner tried to explain this once before in the Response to Argument of final office action dated September 26, 2008) 112, 1<sup>st</sup> rejection of final office action dated September 26, 2008, has not been overcome in the after final response dated December 1, 2008. Therefore, these claims are not in condition for allowance. With regard to claims 19 and 26, Applicant states "MPEP 706.04 doesn't appear to establish that 'new art' is sufficient to render rejection of previously allowed claims proper." Again, Examiner would like to point out that previously allowed claims 19 and 26 that were rejected only under 112,2<sup>nd</sup>, in office action dated July 12, 2007, has since been rejected by the "new art" in a non-final office action dated February 7, 2008, and then where there was no amendment made to these claims, they were rejected by the same art in a final office action dated September 26, 2008. Therefore, Examiner had rejected claims 19 and 26 twice according to the MPEP. Additionally, with regard to claims 1 and 10, Applicant references Fig. 3 to illustrate a first and second service interfaces. Remark, p.8, para. 7-p.9, para. 1. Fig. 3 also discloses "a service interface1 - transport interface1 - transport interface2 - service interface2" which is not what is recited in claims 1 and 10. Examiner reiterates that the canceled claim 3 and 12, upon which the amendments in claims 1 and 10 were made on November 19, 2007, have been considered in a non-final office action dated February 7, 2008 and a final office action dated September 26, 2008, according to the MPEP. For these reasons, claims 1,4-11,13-20,26 and 27 still stand rejected, as shown in the final office action dated September 26, 2008.